THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 22533 OF 2005

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DATED: 19-10-2005.

Between:

Mr. Dadi Ganga Raju …Petitioner

And

State of Andhra Pradesh, rep.by its

Principal Secretary and another …Respondents

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO. 22533 of 2005

ORDER:

Notification dated 05-10-2005 of the Commissioner and Registrar of Cooperative Societies fixing elections to the cooperative societies in Chodavaram Mandal in two different phases i.e. 22-10-2005 in one phase and 26-10-2005 in the second phase and in fixing the dates of counting as 23-10-2005 and 27-10-2005 respectively and the declaration of the results after the counting is challenged in this petition.

The main contention of the learned counsel for the petitioner is that since counting of votes and declaration of results on the same day in the first phase is likely to influence the voters that go to polls in the second phase on 26-10-2005, though counting of votes in respect of the societies that go to polls in the first phase i.e. 22-10-2005 may be taken up on 23-10-2005 declaration of results thereof may be postponed till 27-10-2005, when counting of votes for the second phase would also be taken up so that voters in the second phase of elections may not be influenced by the results of the first phase of elections.

3. The contention of the learned Government Pleader is that since the members of the

societies going to polls will be different and since the elections to the cooperative societies are not on political party basis, the results of the first phase of elections may not have any influence or bearing on the second phase of elections because results of elections in the cooperative societies of one area can have no influence on the election of the other cooperative societies in another area, especially when the elections are not on political party basis, and in any event since the election process has already begun, this petition is not maintainable.

4. In reply the contention of the learned counsel for the petitioner is that though apparently the elections are not fought on political party basis, in effect and in substance, the elections actually are being contested on political party basis only and that that is so would be evident from the statement made by the Hon'ble Minister for Cooperation, reported by the print media as seen from the Telugu daily 'Eenadu' dated 17-10-2005 that his party would win more seats in the cooperative polls than it won in the municipality elections, and so, according to him, the results of the elections in the first phase would definitely influence the voters of other societies that go to polls in the second phase, and contended that since petitioner is not seeking any interference with the election process, but is only making a request to postpone the declaration of the results of the first phase of election, that request of the petitioner may be considered.

5. Courts cannot be expected to close their eyes to the happenings in the society which are known to all and the sundry. Reports of the print and visual media do disclose that elections to cooperative societies are only on political party basis and that the political parties are trying their best to take hold of or control the cooperative societies as party basis. Therefore though De jure elections to cooperative societies are not on political party basis, they de facto are only on political party basis, and so I find no force in the contention of the learned Government Pleader that the elections to cooperative societies actually are not on political party basis.

6. The Apex Court in ***PUNDLIK v. STATE OF MAHARASHTRA AND OTHERS***, held that if the election process is not going on in accordance with the rules and regulations court has power under Article 226 of the Constitution to interfere with election process. But in this case since there is nothing on record to show that results of the societies which are going to polls on 22-10-2005 will influence the voters of the societies that go to polls on 26-10-2005, I am unable to agree with the contention of the learned counsel for the petitioner that results of elections of first phase may have a bearing on the results of the second phase. For that reason and since there is no prima facie irregularity in fixing the elections to cooperative

societies in two phases, petitioner cannot, by invoking the jurisdiction of this court under Article 226 of the Constitution obtain any relief, after the election process is set in motion.

7. Therefore, I find no grounds to entertain this petition and hence the petition is dismissed. No costs.

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C.Y. SOMAYAJULU, J.

Dated: 19-10-2005.

RNS